



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/625,921	07/26/2000	David A. Strickler	1-14455	8181

1678 7590 11/22/2002

MARSHALL & MELHORN
FOUR SEAGATE, EIGHT FLOOR
TOLEDO, OH 43604

EXAMINER

DICUS, TAMRA

ART UNIT	PAPER NUMBER
----------	--------------

1774

DATE MAILED: 11/22/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/625,921

Applicant(s)

STRICKLER ET AL.

Examiner

Tamra L. Dicus

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

This Office Action is responsive to the amendment filed September 9, 2002.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,780,149 to McCurdy et al. in view of USPN 6,231,971 to Terneu et al.

Regarding claim 1, McCurdy teaches a coated glass article comprising a glass substrate of 3 mm thickness, and at least a first and second coating, one of which is a coating of antimony doped tin oxide wherein the glass article exhibits a selectivity of 10 or greater (see claim 6 and col. 5 and 7). McCurdy is silent to the second coating being fluorine doped tin oxide deposited on and adhering to the coating of antimony doped tin oxide. Terneu discovered that the inclusion of a fluorine doped tin oxide layer on an antimony doped tin oxide layer provided a low solar factor (solar energy) and emissivity. Therefore, it would be obvious to one having ordinary skill in the art to replace the second layer with a fluorine doped tin oxide in order to have lower solar factors and emissivity.

3. Regarding claims 2-7, McCurdy teaches the thickness of the first and second layers is dependent upon the desired solar performance of the stack (layered coatings) (col. 6, lines 57+). Terneu teaches the thickness of each coating ranges from 100 to 500 nm (1000 to 5000 Angstroms) (refer to col. 5-6, especially col. 5, line 33). Therefore, it would be obvious to a

Art Unit: 1774

skilled artisan to modify the glass article of McCurdy with the teachings of Terneu to provide thicknesses within the claimed ranges to effect the solar performance.

4. Regarding claims 8 and 9, McCurdy further teaches a coated glass article exhibiting an emittance of less than 0.2 (see col. 7, lines 51+).

5. Regarding claim 10, McCurdy teaches a glass substrate is a clear float glass ribbon (Col. 11, lines 18+ and claim 5).

6. Regarding claim 11, McCurdy teaches an article exhibiting a neutral color having the values in the CIELAB system as claimed (see col. 7, lines 7+). Additionally, McCurdy teaches color being defined by the composition of the coated glass article and thickness of the coats (col. 6, line 64+), and specifically teaches a neutral color.

7. Terneu teaches a tin/antimony molar ratio of 0.05 –0.5 (col. 6, lines 5+) meeting the limitations of claim 12.

8. McCurdy at col. 7, lines 12+ teaches a glass article exhibiting a visible light transmittance (Illuminant C) of at least 60% and a total solar energy transmittance of less than 50% meeting the limitations of claims 13 and 14.

9. Regarding claims 15 & 16, McCurdy teaches an insulating glass unit for architectural glazings (col. 7, lines 24+) or window units (col. 1, lines 23+) having a U value (heat transfer coefficient) less than 0.4 (especially, col. 7, line 54+).

10. Regarding claims 17 and 18, McCurdy discussed above, further includes an iridescence-suppressing interlayer between the glass substrate and the antimony doped tin oxide layer.

According to McCurdy this interlayer suppresses the observance of off angle colors and single, multiple, or gradient layer coatings are suitable (col. 2, lines 45+, especially lines 65+) and

Art Unit: 1774

exhibits the required Illuminant C and solar energy transmittance exhibiting a neutral color having the values in the CIELAB system as claimed (see col. 7, lines 3+). McCurdy teaches color being defined by the composition of the coated glass article and thickness of the coats (col. 6, line 64+), and specifically teaches exhibiting a neutral color.

11. McCurdy further discloses the iridescence-suppressing interlayer comprising a layer of undoped tin oxide, and a layer of silica (see col. 9, lines 29+, patented claims 6, 10, and 14, col. 11 and 12), where each interlayer has a thickness selected such that the interlayer forms a combined total optical thickness of about $1/6^{\text{th}}$ to about $1/12^{\text{th}}$ of a 500 nm wavelength (col. 2, lines 66+, especially col. 4, lines 47+) addressing the instant claims 19 and 20. McCurdy also discloses the tin oxide deposited on and adheres to a glass substrate and a layer of silica is deposited and adhered to the tin oxide (see claims 6, 10, and 14, col. 8, lines 1+, and col. 9, lines 25+).

12. Regarding claim 21, in several examples, McCurdy discloses how the thickness of the tin oxide and silica layers are between 150 and 350 angstroms (col. 8, lines 1+ and col. 9, lines 29+).

No patentable distinction is seen between the coated glass article of the combined references and that of the present claims.

13. Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,780,149 to McCurdy et al. in view of USPN 6,231,971 to Terneu et al.

Regarding claim 22, McCurdy teaches an insulating glass unit comprising a first and second glass substrate, a multilayer coating stack of at least a first and second coating, one of which is a coating of antimony doped tin oxide wherein the glass article exhibits a selectivity of 10 or greater (satisfying 13 or more) on a clear glass substrate of 3 mm thickness (see claims 6

Art Unit: 1774

and 22, col. 7, lines 24+, col. 9, and col. 10). McCurdy teaches the thickness of the first and second layers is dependent upon the desired solar performance of the stack (layered coatings) (col. 6, lines 57+). McCurdy is silent to the second coating being fluorine doped tin oxide of the claimed thickness deposited on and adhering to the coating of antimony doped tin oxide. Terneu discovered that the inclusion of a fluorine doped tin oxide layer on an antimony doped tin oxide layer provided a low solar factor (solar energy) and emissivity. Therefore, it would be obvious to one having ordinary skill in the art to replace the second layer with a fluorine doped tin oxide in order to have lower solar factors and emissivity. Terneu teaches the thickness of each coating ranges from 100 to 500 nm (1000 to 5000 Angstroms) (refer to col. 5-6, especially col. 5, line 33). It would be obvious also to a skilled artisan to modify the glass article of McCurdy with the teachings of Terneu to provide thicknesses within the claimed ranges to effect the solar performance.

14. Regarding claim 23, McCurdy teaches an insulating glass unit for architectural glazings (col. 7, lines 24+) or window units (col. 1, lines 23+) having a U value (heat transfer coefficient) less than 0.4 (especially, col. 7, line 54+).

15. An insulating glass unit using a thickness of multilayered coatings and two glass panes are taught by McCurdy and Terneu and would exhibit the properties as claimed in 24 and 25.

16. Claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,780,149 to McCurdy et al. in view of USPN 6,231,971 to Terneu et al.

Regarding claim 26, McCurdy teaches a coated glass article comprising a glass substrate of 3 mm thickness, and at least a first and second coating, one of which is a coating of antimony doped tin oxide wherein the glass article exhibits a selectivity of 10 or greater (satisfying 13 or

Art Unit: 1774

more) (see claim 6 and col. 5 and 7). McCurdy teaches the thickness of the first and second layers is dependent upon the desired solar performance of the stack (layered coatings) (col. 6, lines 57+). McCurdy is silent to the second coating being fluorine doped tin oxide of the claimed thickness deposited on and adhering to the coating of antimony doped tin oxide. Terneu discovered that the inclusion of a fluorine doped tin oxide layer on an antimony doped tin oxide layer provided a low solar factor (solar energy) and emissivity. Therefore, it would be obvious to one having ordinary skill in the art to replace the second layer with a fluorine doped tin oxide in order to have lower solar factors and emissivity. Terneu teaches the thickness of each coating ranges from 100 to 500 nm (1000 to 5000 Angstroms) (refer to col. 5-6, especially col. 5, line 33). It would be obvious also to a skilled artisan to modify the glass article of McCurdy with the teachings of Terneu to provide thicknesses within the claimed ranges to effect the solar performance.

17. McCurdy further teaches a coated glass article exhibiting an emittance of less than 0.2 (see col. 7, lines 51+) meeting the limitations of claim 27.

18. Regarding claim 28, McCurdy teaches an article exhibiting a neutral color having the values in the CIELAB system as claimed (see col. 7, lines 7+). McCurdy teaches color being defined by the composition of the coated glass article and thickness of the coats (col. 6, line 64+), and specifically teaches a neutral color.

No patentable distinction is seen between the insulated glass unit of the combined references and that of the present claims.

Response to Arguments

Art Unit: 1774

Applicant's arguments filed September 9, 2002 have been fully considered but they are not persuasive.

In response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicant contests that no combination is warranted as McCurdy requires undoped layers and iridescent layers. Applicant asserts McCurdy's coatings have the same refractive index in visible spectrum, and great difference in near infrared spectrum, hence this criteria would optimize transmission of visible light and infrared spectrum. Applicant further states that such coatings based on the criteria is essential to the purpose of the invention. The Examiner does not agree. Purpose of prior art is immaterial, especially when the same teachings are provided. Further, McCurdy teaches the same glass thickness, selectivity, and difference of Illuminant C as claimed in instant claim 1. McCurdy explicitly states for a glass 3mm thick, exhibiting the same integrated air mass of 1.5, difference of Illuminant C and total solar energy transmittance is clearly achievable when applying a suitable first coating of antimony doped tin oxide (same component as Applicant claims). Again, refer to col. 5, lines 50-51 and col. 7, lines 12-23.

Applicant further asserts Terneu does not teach fluorine doped tin oxide layer on an antimony doped tin oxide layer, since Applicant believes in the file history of Patent 6,231,971 to Terneu teaches deposition of an additional layer of fluorine doped tin oxide because adding such is time consuming and expensive. Well, it does not matter what was in the file because Terneu's **patent** teaches the very option of disposing fluorine doped tin oxide on antimony doped tin

Art Unit: 1774

oxide at col. 5, lines 37-40. Terneu explicitly and clearly teaches this very option, but simply chose to find a better way to obtain such a suitable combination. Therefore, Terneu teaches the very combination and it is certainly obvious to one of skill to combine with the glass article of McCurdy, despite their purpose.

Applicant alleges the date of Terneu is not appropriate to combine in a 103 rejection. 10/13/98 of Terneu is prior to 8/10/99 effective filing date of instant application. Rejection is sustained.

In response to applicant's argument that the effects of the refractive indices of coatings of McCurdy result in different behavior is not germane to patentability; the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Applicant concludes that independent claims 22 and 26 provide a similar analysis to instant claim 1, defining a similar structure to claim 1 over the same prior art, and therefore for the same reasons as Applicant relies upon above believes the combination is improper. The Examiner further disagrees for the same reasons as stated above. No differences are seen.

Applicant further concludes for the same reasons that dependent claims 2-21, 23-25, and 27-28 are allowable based on same reasoning above. Conclusively, the Examiner must disagree. Applicant's argument simply does not prove any novelty of the instant claims.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1774

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamra L. Dicus whose telephone number is (703) 305-3809. The examiner can normally be reached on Monday-Friday, 7:00-4:30 p.m., alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (703) 308-0449. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-8329 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Tamra L. Dicus
Examiner
Art Unit 1774

November 19, 2002

CYNTHIA M. KELLY
SUPERVISOR
TEC. 1700

